FILED
FEB 17 1988
JOSEPH F. SPANIOL, JR.
CLERK

No. 87-999

In The
Supreme Court of the United States
October Term, 1987

GORDON E. McQUILLEN,

Petitioner,

v.

WISCONSIN EDUCATION ASSOCIATION COUNCIL, DONALD E. KRAHN, and MORRIS ANDREWS,

Respondents.

SUPPLEMENTAL MEMORANDUM IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

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& GINGRAS, S.C.
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Counsel for Petitioner

February 23, 1988

The Court should be advised that it may wish to consider the Petition for for Writ of Certiorari in the above-captioned case, which is scheduled for hearing on Friday, February 19, 1988, with the Petition for Certiorari in the case Price Waterhouse v. Hopkins, Docket No. 87-1167, which is scheduled for hearing on March 4, 1988. Both petitions seek court review of the conflict in the circuit courts of appeal over the Mt. Healthy[1] "but for" standard of causation as applied in Title VII mixed motives cases and particularly whether the plaintiff or the defendant has the burden of proof on the "but for" issue.

In McQuillen, the Seventh Circuit Court of Appeals ruled that the plaintiff

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[1] Mt. Healthy v. Doyle, 429 U.S. 274 (1977).

has the burden of proof whereas in Price Waterhouse the D.C. Circuit Court of Appeals placed the burden on the defendant. This obvious conflict, together with the fact that both petitions were filed simultaneously from different circuits, highlights the current confusion in the circuit courts of appeal and the need for Supreme Court review.

Dated at Madison, Wisconsin, this 23rd day of February, 1988.

Respectfully submitted,

Gordon McQuillen, Petitioner

By

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RULE 28.1 LISTING

The respondent, the Wisconsin Education Association Council, is an affiliate of the National Education Association.

Dated at Madison, Wisconsin this 23rd day of February, 1988.

Respectfully submitted,
Gordon E. McQuillen,
Petitioner

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